

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.72 OF 1999

The Commissioner of Income Tax
Kolhapur .. Applicant.

V/s.

Shri Datta SSK Ltd., Kolhapur .. Respondent.

Mr.Ashok Kotangale with Mr.Parag Vyas
for the applicant.

Mr.Pramod Vaidya i/b. S.N. Inamdar
for the respondent.

**CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.**

DATED : 24TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the parties.
The Tribunal has referred following questions for the
opinion of this Court, reading as under :

Whether on the facts and in the circumstances
of the case the ITAT relying on the decision
of its Special Bench in the case of Shri
Chhatrapati SSK Ltd. (198 ITR 78 - AT) was
right in deleting the following additions by
holding that the various funds/deposits
collected by the assessee society out of the
sugarcane purchase price payable to the cane
growers are not trading receipts of the
assessee ?

1. Non-refundable deposits,
2. Chief Minister;s fund,
3. Cane development fund,
4. Hutment fund,
5. Indira Awas Yojana

6. Water Scarcity fund,
7. Small savings fund,

2. In so far as all other items except cane development fund and Indira Awas Yojana are concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as Cane Development Fund and Indira Awas Yojana are concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issue stands remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)